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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, a
Connecticut corporation,

Plaintiffs,

vs.

AMERICAN PONY EXPRESS, INC., an
Arizona corporation; ARIZONA TAXI
MANAGEMENT, LLC, an Arizona
limited liability company; and VIP TAXI
LLC., an Arizona limited liability
company,

Defendants.

CASE NO. 4:18-CV-00440-JGZ

**JOINT MOTION BY ALL
PARTIES TO REMAND
ACTION TO ARIZONA
SUPERIOR COURT, PIMA
COUNTY**

DATE:
TIME:
DEPT:

JUDGE: Hon. Jennifer G. Zipps
ACTION FILED: 8/30/18
TRIAL DATE: Not Set

I. INTRODUCTION

Plaintiff Travelers Property Casualty Company of America (“Plaintiff”) filed this matter in the Arizona Superior Court, Pima County. On August 30, 2018, Defendants American Pony Express, Inc., Arizona Taxi Management, LLC and VIP Taxi, LLC (collectively “Defendants”) removed this action to Federal Court on the basis of diversity of citizenship. Following meeting and conferring between the parties, Defendants and

1 Plaintiff hereby jointly move to remand this action to the Arizona Superior Court, Pima
2 County.

3 **II. FACTUAL BACKGROUND**

4 Plaintiff filed this matter in the Superior Court, State of Arizona, Pima County, on
5 July 31, 2018. [Doc. 1-3, pp.3-9.] Defendants, through counsel, accepted service the same
6 date. [Doc. 1-3, p.2.]

7 Plaintiff is a citizen of Connecticut. [Doc. 1-3, p.3.] Defendants are citizens of
8 Arizona. [Id.] Defendants filed a Notice of Removal based on the assertion of complete
9 diversity, removing this matter to this Court on August 30, 2018. [Doc. 1.]

10 Following Defendants' removal of this action, counsel for the parties met and
11 conferred regarding the removal. Since Defendants' removal was entirely based on
12 diversity of citizenship, and Plaintiff does not wish to waive the right to remand this action,
13 Defendants agreed to file this joint motion to remand.

14 **III. Remand to the Arizona Superior Court, Pima County, is Warranted**

15 The district courts have original jurisdiction "of all civil actions where the matter in
16 controversy exceeds the sum or value of \$75,000 . . . and is between (1) citizens of different
17 States." 28 U.S.C. § 1332(a). Because complete diversity exists in this matter [Doc. 1-3,
18 p.3.], Defendants removed this matter to this Court.

19 Following Defendants' filing of the Notice of Removal, Plaintiff and Defendants met
20 and conferred regarding the removal. Plaintiff pointed to 28 U.S.C. § 1441, which provides
21 that "[a] civil action otherwise removable solely on the basis of the jurisdiction under
22 section 1332(a) . . . may not be removed if any of the parties in interest properly joined and
23 served as defendants is a citizen of the State in which such action is brought." 28 U.S.C. §
24 1441. This statute – known as the "forum defendant rule" – is procedural rather than
25 jurisdictional and requires an objecting plaintiff to file such within 30 days of removal. *SWC*
26 *Inc. v. Elite Promo, Inc.*, 234 F.Supp.3d 1018, 1021-1022 (N.D.Cal. 2017), *citing Lively v.*
27 *Wild Oats Mkts., Inc.*, 456 F.3d 933, 940 (9th Cir. 2006).
28

1 Plaintiff does not consent to this removal and will not waive its right to remand.
2 Accordingly, the parties have agreed to remand this action and respectfully request that the
3 Court remand this matter to the Superior Court, State of Arizona.

4 **IV. CONCLUSION**

5 For the foregoing reason, Plaintiff and Defendants respectfully request that the Court
6 remand this matter to the Superior Court, State of Arizona, Pima County.

7
8 Dated: September 5, 2018

DUNN DESANTIS WALT
& KENDRICK, LLP

9
10 By: /s/ James A. McFaul
James A. McFaul

11 Attorneys for Defendants, AMERICAN
12 PONY EXPRESS, INC., ARIZONA
13 TAXI MANAGEMENT, LLC, and VIP
TAXI LLC

14
15 SNELL & WILMER, L.L.P.

16 By: /s/ Joseph A. Kroeger (w/ permission)
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18 Attorneys for Plaintiff,
19 TRAVELERS PROPERTY
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